

Mr. Timothy Tabias Actkinson SID # 7854875
 Pro se'
 Snake River Correctional Institution
 777 Stanton Boulevard
 Ontario, Oregon. 97914
 (541) 881-4537

FILED '08 OCT 22 11:09 USDC-ORE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

TIMOTHY TABIAS ACTKINSON,

Plaintiff,

V.

Dr. STEVE SHELTON, Dr. RUTHVEN, Dr.
 GULICK, Ms. HODGES, Ms. HARMON, Ms.
 SOURE, Health Services Mngr/Staff, members of
 the Counseling & Treatment Services-(CTS),
 members of the TLC committee, Ms. Heidi
 Mackenzie, Ms. M. Winter, Ms. Teresa Hicks,
 members of the eye-glass committee, STATE OF
 OREGON by and through the Oregon Department
 of Corrections, and John Does No(s). 1-15.;
 Ms. Bishop; c/o: Sereno.

Defendants.

No: **6:08-CV-0187-TC**

CIVIL COMPLAINT

42 USC 1983

Civil Rights Violations:

8th Amendment Denial of

Court Ordered and Necessary

Medications/Necessary Medical

Care; Americans with Disabilities;

ADA Title II; Authority of confinement issues

and Due Process Violations; Theft of property;

Religious-Violations of Free Exercise and

Establishment clauses)

Amended Complaint

(Verified Complaint With Jury Demand)

Demanded: 1,200,000 plus cost, etc.

INTRODUCTORY STATEMENT

1.

This civil rights action filed by Plaintiff is brought under 42 U.S.C. § 1983, alleging delay and denial of essential medical care of an incarcerated person and due process in violation of the Eighth and Fourteenth Amendments to the United States Constitution, Contempt of Court and 42 U.S.C.A. § 12181, et seq.

2.

This court has jurisdiction over Plaintiff's claims of violations of federal constitutional rights under 28 U.S.C. §§ 1331 and 1343. Plaintiff Actkinson is an "individual with a disability"

1 as defined by 29 C.F.R. §§ 1630.2(h)-(j); 42 U.S.C. § 12111(8) and or “disabled person” under
2 ORS 659.400(1). Every Plaintiff is disabled and due to that disability is limited in one or more
3 major life activities and that such effects on a major life activity is substantial.

4 3.

5 Venue is proper under 28 U.S.C. § 1391(b), in that one or more of the defendants reside
6 in the District of Oregon and Plaintiff's claims for relief arose in this district.

7 THE PARTIES

8 4.

9 Plaintiff Timothy Tabias Actkinson was at all pertinent times an incarcerated person in
10 the custody and control of the Oregon Department of Corrections. He was transferred to the
11 custody of the Oregon Department of Corrections on February 10th, 2006 and is scheduled for
12 release on or about ~~August 14, 2009~~ April 2nd, 2009, see # 538, 1591.

13 5.

14 At all times herein Defendant Steve Shelton was a physician employed by the State of
15 Oregon, by and through the Department of Corrections as its Health Services Administrator, and
16 is sued herein in his individual and official capacities.

17 6.

18 At all times herein Defendant Daryl Ruthven was a psychiatrist employed by the State of
19 Oregon, by and through the Department of Corrections, and is sued herein in his individual and
20 official capacities.

21 7.

22 At all times herein Defendant Gulick was a physician employed by the State of Oregon,
23 by and through the Department of Corrections as the Chief medical officer of the Snake River
24 Correctional Institution, and is sued herein in his individual and official capacities.

1 8.

2 At all times herein Defendant Harmon was at all relevant times employed by the State of
3 Oregon, by and through the Department of Corrections as a Registered Nurse and/or Nurse
4 Practitioner, and is sued herein in her individual and official capacities.

5 9.

6 At all times herein Defendant Shirley Hodge was at all relevant times employed by the
7 State of Oregon, by and through the Department of Corrections as a Registered Nurse and/or
8 Health Services Manager, and is sued herein in her individual and official capacities.

9 10.

10 Defendant G. Atkins was at all times herein employed by the State of Oregon, by and
11 through the Department of Corrections as the Correctional Treatment Services Manager for the
12 Snake River Correctional Institution, and is sued in her individual and official capacities.

13 11.

14 At all times herein Defendant T. Hicks was at all relevant times employed by the State of
15 Oregon, by and through the Department of Corrections as the Rules, Procedures, Policies &
16 Grievances Coordinator, and Minority Affairs Manager for the Snake River Correctional
17 Institution, and is sued in her individual and official capacities.

18 12.

19 Defendant K. Stevens was at all times herein employed by the State of Oregon, by and
20 through the Department of Corrections as the Mail Room Supervisor for the Snake River
21 Correctional Institution, and is sued in her individual and official capacities.

22 13.

23 Defendant Ms. Bishop was at all times herein employed by the State of Oregon, by and
24 through the Department of Corrections as an: OS-II for the Snake River Correctional Institution,

1 and is sued in her individual and official capacities.

2 14.

3 Defendant Heidi Mackenzie was at all times herein employed by the State of Oregon, by
4 and through the Department of Corrections as the Plaintiff's Counselor, and is sued in her
5 individual and official capacities.

6 15.

7 Defendant M. Winter was at all times herein employed by the State of Oregon, by and
8 through the Department of Corrections as Acting Transitional Services Manager, and is the
9 Supervisor of ODOC's Snake River Correctional Institution counselor(s) and also supervises
10 various legal programs such as scheduling for the inmate law-library, etc. She is sued in her
11 individual and official capacities.

12 16.

13 Defendant Ms. Stephens and Nurse Managers-members of: the Eye-glass committee or
14 has recently become known as-(The Optical Committee); the TLC committee; the CTS staff
15 that many are not known by name, however, all who become known to the Plaintiff as
16 *Defendants* that were, at times pertinent to this complaint, herein employed by the State of
17 Oregon, by and through the Department of Corrections are sued in their individual and official
18 capacities.

19 17.

20 Defendant Does are individuals whose identities and/or job titles are not now known to
21 Plaintiff and through diligent inquiry will be identified & individually named when so
22 discovered. Defendant Does are sued in their individual and official capacities.

23 18.

24 All defendants have acted under of color of law at all times relevant to this complaint.

19.

If Counsel is appointed/or hired; Plaintiff will be entitled to an award of attorneys fees and costs, pursuant to 42 U.S.C. § 1988. trial and 42 U.S.C. § 12111.

20.

Plaintiff fully exhausted all available administrative remedies by filing a timely grievance and two subsequent levels of appeals. All grievances and appeals therefrom were denied by all Oregon Department of Corrections personnel including Defendant Hodge.

ADA Title II.

21.

On February 03rd, 2006 the Honorable Judge Marilyn E. Litzengerger ordered the Oregon Department of Corrections to maintain the Plaintiff on the psychiatric medications that which he was taking at the time of his sentencing and which community specialists as well as the counties and state specialists agreed upon. ^{see # 269; 250; 268.}

22.

On February 10th, 2006 Plaintiff Aettkinson was transported into ODOC custody along with Judge Litzengerger's court order. Dr. Buckler who ~~is~~ treated the Plaintiff in the community but who was at this point employed by ODOC

1 and working at the ODOC Intake Center wrote an order
 2 prescribing DEXEDRINE. This order and prescription were not
 3 followed. Then two other psychiatrists both recommend and
 4 prescribe DEXEDRINE for the Plaintiff. These too are denied. On top
 5 of this all these specialists reported to Plaintiff Atkinson that they
 6 were given strict instructions not to prescribe DEXEDRINE
 7 for Atkinson so ordered by Dr. Ruthven, ODOC's chief
 8 psychiatrist. ^{see # 214; 215; 268.}

9
 10 23.

11 After Dr. Bucklee's prescriptions for DEXEDRINE was
 12 denied he (Dr. Bucklee) began to titrate Atkinson on
 13 METHYLPHENIDATE another ADD/ADHD medication on February 21st, 2006
 14 and which other ODOC psychiatrists titrated up to 90 mgs daily.
 15 This dosage had a marked clinical effect. ^{see # 250; 179; 258.}

16
 17 24.

18 Because continued to feel physically ^{ill} uncomfortable (a side
 19 effects of METHYLPHENIDATE) and because METHYLPHENIDATE dose not
 20 work as well as DEXEDRINE for Plaintiff, Plaintiff asked court
 21 for help over ODOC's violation of court's order. Court directed
 22 Plaintiff Atkinson to file New Complaint in federal court to
 23 seek relief. ^{see # 270; 271.}

24
 25 25.

26 After Plaintiff Atkinson complained that such high

1 dosages of METHYLPHENIDATE (90 mg) made him feel
 2 ill, while dosages of 30 mgs of DEXTROINE were more effective
 3 and did cause him to feel ill, DR. Ruthven accused Plaintiff
 4 Atkinson of Abuse of METHYLPHENIDATE because the ODOC
 5 psychiatrist DR. Ashaye had prescribed Atkinson to receive
 6 his first daily dose of METHYLPHENIDATE at 60 mgs. Not
 7 because Plaintiff Atkinson did anything wrong. Because DR.
 8 Ruthven did not want to take the time to explain this
 9 ~~mess~~ in Atkinson's medical file he (DR. Ruthven) simply
 10 wrote: "D/c for reasons of abuse". When Atkinson wrote
 11 DR. Ruthven about these untrue allegations then DR. Ruthven
 12 replied by explaining it wasn't Atkinson's abuse but
 13 rather the way DR. Ashaye prescribed the dosages. ^{see # 272.}
 14 Still, DR. Ruthven never took the time to properly explain in
 15 Atkinson's medical file so his initial note appears Atkinson
 16 abused his meds. ^{see # 1370; 281; 282; 283; 284; 285; 286; ~~287~~ 1101; 1102.}

17
 18 26.

19 Plaintiff Atkinson has suffered for DR.
 20 Ruthven's attribution of abuse. Because of DR. Ruthven's
 21 "abuse" (note) current providers use it as a reason to not give
 22 Atkinson his needed medications. ^{see # 261; 281; 272; 276; 277.}

23
 24 27.

25 On ~~May 10th, 2007~~ July 17th, 2007 the Oregon Court
 26 of appeals AFFIRMED without opinion Judge Litzberger's sentence
 and court orders. ^{see # 284; 289}

28.

1
2 Plaintiff's psychiatric medications were
3 discontinued by defendant Haerman (an identified
4 Jane Doe defendant in USDC case # 6:04-cv-00698-MA)
5 for / because Plaintiff Atkinson identified her
6 as such and because Plaintiff Atkinson filed an
7 Institution Grievance form reporting ms. Haerman saying:
8 "A bad blast from the past" in referring to
9 Atkinson in front of medical staff and inmates
10 present in medical at afternoon medication line. ^{see} #287;
11 #288.

29.

12
13
14 After plaintiff continued to grieve paragraphs
15 28's issue(s) Atkinson's case was transferred to Dr.
16 Corvino who adamantly adhered to ms. Haerman's
17 recommendations even though ODOC agreed that ms.
18 Haerman should not have been in the position she was
19 in, in regards to plaintiff Atkinson. see #286; 287; 288.

30.

20
21
22 After plaintiff met with Dr. Corvino
23 he met with ms. SOWER who let Plaintiff
24 Atkinson he messed up because ms. Haerman was /
25 is ms. Sower's friend. After this meeting between
26 Plaintiff Atkinson and ms. Sower plaintiff

1 Atkinson punched the interview room's window
 2 breaking it. About 1-month later when ms. Souer
 3 learned about plaintiff Atkinson breaking the
 4 interview room's window ms. Souer falsified
 5 a story and tried to manipulate the facts and
 6 attempted to ~~make a claim~~ claim that she
 7 (ms. Souer) was in the interview room when
 8 Atkinson broke the window and used this
 9 specific behavior as the false reasoning as to
 10 why she discontinued Atkinson's psychiatric
 11 medications, see #275; 276; 277; 278; 279.

12
 13 31.

14 The night before an appointment with
 15 Dr. Corvino on 01/28/08 plaintiff Atkinson
 16 was slipped three 20 mg tablets of Ritalin
 17 at the evening medication line without a prescription and
 18 without his knowledge. The next morning he met with
 19 Dr. Corvino who reported Atkinson was doing well
 20 off of Ritalin. This was done by some coincidental
 21 mistake (or) as a tactic to make it appear Atkinson
 22 was doing fine being off of Ritalin while in fact
 23 he had been given an extremely large dosage of
 24 Ritalin before his appointment. See #281, ~~282, 283~~ 282, 280.

25 Plaintiff Atkinson was called down to medical to
 26 make sure he felt alright after this 60 mg mix-up. But docs
 not see medical notes concerning incident see #87; 88.

32.
Plaintiff's release date of: 01/11/09 was taken because of bogus falsified misconduct reports that he began receiving on the date the plaintiff was received into ODOC's custody 02/10/06 and which has continued throughout his stay in ODOC custody. see # 294; 295; 296; 313; 320-323; 385; 421; 597-609; 643; 644; 660; 678-679; 684-691; 894-895; 916-917; 920-923; 975; 1019; 1052-1055; 1064-1065; 1148-1149; 1310-1314; 1356; 1358-1359; 1365-1367; 1315-1319; 1607-1635; 305; 1137; 1636-1637.

Plaintiff has only received (2) major misconduct reports that actually resulted from violation of ODOC's list of rule violations and those (2) misconducts were issued during the same ~~the~~ six-month-review period, therefore only 10% ~~one~~ deduction in one ⁽¹⁾ six-month-review period is valid. The plaintiff pled guiltyⁱⁿ both of those ~~the~~ circumstances. So date of: 01/11/09 is sought. see # 305; 431

THEFT OF MONIES; Properties; ETC.

33.

Plaintiff's medical devices to wit: Eye-glasses; leg/knee brace; and orthopedic shoes were stolen, lost, destroyed by defendants. The cost/value of these items are as follows: see 1131, 1133.

Eye-glasses ~~\$220.00~~ \$220.00

leg/knee brace \$550.00

orthopedic shoes \$250.00

that is: \$ 1,020.00 [One thousand & twenty dollars.]
#s 435; 1081; 1506;

34.

Plaintiff has had items which he purchased from ODOC's canteen stolen, lost, confiscated, destroyed by the defendants. The cost/value of these items are as follows: See #389.

Envelopes ~~#120~~ = \$ ~~60.00~~ ⁹⁹/₇₇ " —————>

#'s ~~1488; 1489;~~ 370; 428; 1552; 1544; 1541-1547; 892; 1368; 1369; 1385; 1444; 1448; 1449; 1461; 1463; 1468;

TIMEX IRONMAN watch \$ ~~34~~ ⁹⁹/₇₇ " —————>

#'s 441; 442; 479; 528; 529; 530; 620; 622; 656; 1369; 1499; 1581; 1582; 1662; 1663; 1166; 1404.

ODOC Canteen shoes \$ ~~29~~ ⁹⁹/₇₇ = \$ 27. ⁹⁹/₇₇ " —————>

#'s 479; 488; 528; 529; 530; 620; 622; 1456; 1458; 1554;

ODOC Canteen sun-glasses \$ ~~8.00~~ ⁹⁹/₇₇ " —————>

488; 529; 530; 620; 622; 1369;

ODOC Canteen Legel-Tote \$ ~~7.50~~ ⁹⁹/₇₇ " —————>

#'s 512; 513; 514; 515; 529; 530;

ODOC MISC - canteen items \$ ~~50.00~~ ⁹⁹/₇₇ " —————>

#'s 696; 892; 1136; 1369; 1368; 1448; 1444; 1445; 1449; 1465; 1466; 1469; 1498; 1499; (See #1370)

Recording of ODOC wrongly taking funds: #'s 898; 1163; 1167; 1168; 1169; 1170;

1375; 1376; 1379; 1388; 1419; 1401; 1420; 1421; 1452; = \$ 20. ⁰⁰/₇₇ " —————>

1488; 1486; 1487; 329;

ODOC Canteen photo tickets \$ ~~12.00~~ ⁹⁹/₇₇ " —————>

#'s 900; 901; 910; 911; 913; 914; 917; 1123; 1457; 1467;

[my honesty - see # 1462]

That is a Total of: \$ 220. ⁴⁸/₇₇ - [Two hundred Twenty dollars & forty eight cents.]

35.

Plaintiff has been physically tortured by defendants using devices inappropriately as weapons against him and with the use of hands and other parts of the defendants bodies while plaintiff was restrained in restraints such as: belly chains; hand-cuffs; ankle-chains; etc. Plaintiff carries the scars ^{see #939}

The Plaintiff has also been subject to tactics employed by the defendants such as: calling him condescending names and references; putting him on religious ^{see #1536} diets against his beliefs; denying him the right to attend religious services; denying him shoes ^{see #681} while everyone is issued shoes; telling his family and friends lies such as telling his family he has spent most of his sentence in the mental ward ^{see #618, 642} when he has never once been in the mental unit. These lists don't end and the Plaintiff will need time to bring everything out. ^{see #681, 950, 455, 456, 460, 462, 463, 1537}

The defendants have manipulated events within the prison system to make it appear that the plaintiff has betrayed other prisoners who belong to gangs. This has caused a grave complication in the Plaintiff's security. ^{see #275-279, 294-296, 4607-1635}

19.

~~If Counsel is appointed and/or hired, Plaintiff will be entitled to an award of attorneys fees and costs pursuant to 42 U.S.C. § 1988 trial and 42 U.S.C. § 12111.~~

20.

~~Plaintiff fully exhausted all available administrative remedies by filing a timely grievance and two subsequent levels of appeals. All grievances and appeals therefrom were denied by all Oregon Department of Corrections personnel including Defendant Hodge.~~

21. 36.

In July 2007 Plaintiff was visiting the SRCI infirmary for complaints about an injury to his left elbow that happened while working as a housing unit orderly, the accute pain, the lack of movement and the obvious swelling in the left elbow joint. He was asked: "is your arm broken?" He answered: "I don't know...I don't think so?!?!". The Plaintiff had one foot in the infirmary's waiting room door and one foot inside the infirmary's entrance, he was not physically examined. The Defendants failed to inspect and/or to treat the Plaintiff's injury. At all times the Defendants have acted with deliberate indifference to the Plaintiff's serious medical needs and requirements. ^{see # 94, 1563, 1585.}

22. 37.

In August 2007 Plaintiff was advised by Correctional Officer: OTTEN and told to: "quit harassing security-[correctional officers]-and medical-[health services department personell]-about your meds." The Plaintiff has received disciplinary lock-downs called: "Cell-Inns" for requesting that one of his supervising correctional officers to contact his CTS case manager Ms. Eddy and/or to contact the health services department over crucial medications such as: eye-drops; psychiatric medications; and medications that help balance his nervous system. C/O: OTTEN is merely one officer who has been directed to put disciplinary in place for Plaintiff Actkinson seeking medical attention.

38.
29.

In September 2007 Plaintiff was subjected to the medical authority of Ms. Harmon again on September 9th, 2007 after identifying her as an unnamed Defendant in USDC case No. 06-35367 and after receiving a statement from the SRCI health services manager that his care was changed to (1)-Dr. Carvoni. When Plaintiff finally saw Dr. Carvoni and tried to address his medical needs, upon meeting the Dr. Carvoni, Dr. Carvoni said: "I don't want to hear no shit about no law suits or court orders." See # 280-283, 286-288.

39.

Plaintiff Actkinson suffers from significant physical limitations as a result of a severe auto accident where he was struck by a motor vehicle when he was a pedestrian. This occurred when he was about 12. As a result of those serious injuries Plaintiff Actkinson suffers from ongoing physical disabilities/injuries for which he is prescribed a combination of anti-anxiety / panic-disorder and pain control medications. As a result of this traumatic accident Plaintiff Actkinson developed severe neurological abnormalities, spinal injuries, and his developmental and cognitive/psychological deficits became worse, such as; his Attention deficit disorders & Attention deficit hyperactivity disorders were greatly exacerbated. See # 241-244, 546-552.

40.

Plaintiff Actkinson has been diagnosed as suffering from serious physical and psychological disorders. See # 290-293.

41.

Plaintiff Actkinson was treated for his ongoing and progressing neurological disorders by medical professionals in the community effectively. Upon his incarceration Plaintiff provided copies of his entire medical treatment files from the community specialists and agreed to sign any releases of medical information that may be needed to aid the Oregon Department of

1 Corrections medical staff and personnel in continuing effective and needed quality care as has
 2 been deemed to be the most appropriate and beneficial medicinal-treatments and medical-care in
 3 his individual situation. However, the Oregon Department of Corrections has continually gone
 4 out of the way to hinder appropriate treatments, even going against their own medical and
 5 psychiatric expert's recommendations, ^{see # 215, 268.} also; Plaintiff's offers to sign any needed releases of
 6 medical records/history have been either declined and or not honored in ODOC's treatment of the
 7 Plaintiff's serious needs. ^{See # 546-552; 241-244.}
 8 ^{42.}

9 During Plaintiff's ODOC intake process the defendants complied with the Multnomah
 10 Counties Circuit Court Judge; The Honorable Marilyn E. Litzenberger's Order, however, only to
 11 the point of prescribing the medications as was and is properly indicated by that order, to wit;
 12 ^{see # 215} Dexedrine. The fact is that the Plaintiff never received the ordered medications. ^{cut} As a result of the
 13 Plaintiff's mental illness(s), anxiety/panic disorder(s) and chronic pain he has difficulty
 14 functioning, functioning in general population; difficulty maintaining the quality of his
 15 relationship's; difficulty in communicating his needs, his concerns, his thoughts; and as a
 16 response the Defendants will treat his mental illness by isolation, punishment and denial of basic
 17 rights and care including adequate access to medical care, in fact, the Defendant(s) have engaged
 18 in tactic(s) that clearly violate his rights by submitting falsified Misconduct-Reports in, at least,
 19 ^{see # 1137, 1636, 1637.} one report for assaulting another inmate. During Plaintiff's incarceration he has been denied any
 20 and all medical care that has been deemed to be appropriate by ODOC's contracted medical
 21 experts such as: Dr. Olurotimi Ashaye's ordering that Plaintiff be treated with-[DEXEDRINE]
 22 ^{see # 268.} instead of-[RITALIN], Dr. Smith's earlier request which was identical to Dr. Ashaye's, and Dr.
 23 ^{see # 215.} Buckler's prescribing-[DEXEDRINE] not-[RITALIN] for this Plaintiff's individual needs and has
 24 been denied any kind of appropriate treatments to date including for treatment of his chronic pain

1 management. Also, Defendants have not followed recommendations of ODOC's contracted
 2 Orthopedic and/or neurological surgeons, ^{see #245, 547-553.} namely, Dr. Hansen's requesting an MRI of the
 3 Plaintiff's left knee ^{see #223} and further tests to make sure diagnosis is correct and to make sure nothing
 4 else is wrong. To date such requests go denied by the Defendant(s). The Defendants expect the
 5 Plaintiff to go through with surgery approved by the Defendants with Dr. Hansen although the
 6 Defendants refuse to follow his recommendation's-as in further testing and specifically identified
 7 requests for an MRI on the Plaintiff's left knee. ^{see #223.}

8 20. 43.

9 Between June 2002 and February 2006 Plaintiff was periodically seen by specialists in
 10 the community, including: Dr. Vetteles; Dr. Jack Pladel; Dr. Read; ADD/ADHD specialist-Dr.
 11 Tom Porter and many other doctors & specialists who would prescribe appropriate medicinal-
 12 treatments for his specific & individual needs both in the medical and psychological fields of
 13 medicine. These medications were, but not limited to, the following ones listed: NEURONTIN,
 14 OXYCODONE, CLONAZEPAM, DEXEDRINE, DOXIPIN, B6-(Pyridoxine)B12-
 15 (Cyanocobalamin), and other Vitamins along with Physical and Psychological Therapies which
 16 were successful in adequately treating the Plaintiff's needs. ^{see #1669-1689,}

17 20. 44.

18 At the time of Plaintiff's sentencing in Multnomah County the honorable Marilyn E.
 19 Litzenberger ordered that the Plaintiff, "Shall be maintained on the psychiatric medications he
 20 was taking at the time of his sentencing and which had been deemed to be the appropriate
 21 medications for his mental health disorder's and that Mr. Actkinson's medical record's were to be
 22 delivered to the Oregon Department of Corrections." ... "Shall," of course is **mandatory**
 23 **language**, however, the Oregon Department of Corrections defines it as: 'May'- The word 'may'
 24 it is agreed, is permissive language, not mandatory language. ^{See # 304.}

45,
20.

Plaintiff has sent scores of written communications and/or grievances to medical staff including: Dr. Shelton; Dr. Ruthven; Dr. Gulick; Dr. Buckler; Ms. Hodge; Ms. Eddy; Harmon; Ms. Hicks; Dr. Ashaye and others that he needed: the correct psychiatric medications; the correct physical & mental health medications; explaining his pain and suffering; directing attention to his swollen left knee; to many of his physical/psychological health problems which are being viewed as just malingering. Plaintiff believes this is, in part, due to Dr. Vargo's condescending written remarks about him, and Dr. Vargo's intentionally detrimental medical notes/recordings about this Plaintiff's past medical mistreatments, which has also been Dr. Gulick's reasons for denying needed treatments for this Plaintiff, at least, in (1)-written response from Dr. Gulick that clearly indicates this to be the case. ^{see # 267.}

46.

As a result of the communications and complaints made to physicians and to ODOC's administrative personell by the Plaintiff between February 2006 and June 2008 he has been told by means of a written communication, by means of verbal communication, by means of body language, by means of aggressive actions and retaliatory & dolus tactics that no remedy is to be found without seeking relief through court processes. For example: when the Plaintiff requested some copies of his legal-library communications to present them to ODOC administration/staff to prove a valid grievance point he was told: "You will need to get these through the discovery ^{see # 834.} process." At all times the Defendants have acted with deliberate indifference to the Plaintiff's serious medical needs and requirements.

47.

In an order issued by the Ninth Circuit Court of Appeals that was filed on November 15th, 2006 in response to the Plaintiff's request for a protective order regarding the Plaintiff's

1 ADD/ADHD medication. The order from the United states Court Of Appeals For The Ninth
 2 Circuit read in part as follows: "...this issue was not part of the district court judgment that is the
 3 basis of this appeal and may not be considered by this court. Appellant may... ..file a new action
 4 in federal district court to seek the same relief from a federal court." This is, exactly, the course
 5 of action the Plaintiff desires to take, especially, since the issues herein have become such that
 6 various retaliatory tactics are being employed by the defendants, thus, it could be detrimental for
 7 Plaintiff to seek any further administrative relief. Also; by form of written communications, as is
 8 already quoted in paragraph No. ⁴⁴~~29~~ of this complaint, the Defendants have informed the Plaintiff
 9 that he would have to go through, "the discovery process." In order to simply be able to properly
 10 follow ODOC's grievance procedures.

11 ~~23.~~ 48.

12 In response to communications the Plaintiff has submitted to Dr. Steve Shelton-(The
 13 Health Services Administrator For The Oregon Department of Corrections) regarding ODOC
 14 refusing to comply with court orders-ordering ^{see #269.} that this Plaintiff was to be maintained on all the
 15 prescribed psychiatric medications he was taking at the time of his admittance into the Oregon
 16 Department of Corrections on February 10th, 2006. Dr. Shelton wrote in one of his replies the
 17 following: "...your psychiatrist would be the best judge of what is best for your individual
 18 situation." ^{see #521.} It should be noted that: No. 1)- Dr. Ashaye was the Plaintiff's psychiatrist when Dr.
 19 Shelton declared this statement; and No. 2)-Dr. Ashaye ordered that Dexedrine ^{see #268.} should be used
 20 instead of **Ritalin** and is best for Plaintiff's individual situation. Then, other dolus and twisted
 21 reasonings were used as tactics to obstruct Plaintiff's seeking alternative remedies regarding
 22 ODOC's failing to follow Dr. Ashaye's expert best judgment. Such dolus tactics have routinely
 23 been employed by the Defendants and are continuing to be employed.

49,

When the Plaintiff attempted to address some of these grievous issues he is told: "Perhaps ^{see # 523} there was a misunderstanding between you and Dr. Gulick." This was in response to the Plaintiff complaining about Dr. Gulick calling him: "A drug-seeker." Which he did after reading medical records from Dr. Vargo, in the presence of the Plaintiff, which are part of the Plaintiff's medical ^{see # 267} file. It is true Dr. Vargo did accuse the Plaintiff, erroneously, of being a malingerer, however, his accusation's were proven false by medical scientific facts. And the medical experts who treated the Plaintiff following those, erroneous, accusations all said: "It is impossible for the patient to have caused the medical crisis that he is in."

50.

Shown by the following written words of Dr. Shelton: "Mr. Actkinson: SRCI staff has reviewed your medical record and they see no recent order for Dexedrine written by Dr. Ashaye." The twisting of words as in: ^{I see} "no recent order for Dexedrine" ^{see # 944} shows deliberate indifference in that any such expert's order for the prescription of proper medications was not complied with.

51,

Ms. Doris H. Colmes, is the Plaintiff's identified legal-contact/emergency-contact to be notified in case of any medical emergency while Plaintiff is incarcerated in ODOC. Ms. Colmes has been intimately following the Plaintiff's treatment and/or lack of Plaintiff's treatment since his reentry into the Oregon Department of Corrections and has found it lacking. When any lay-person can discern with basic common sense this shows deliberate indifference. ^{see # 44b}

52,

On July 3rd, 2007 Ms. Doris Colmes wrote the State Court Administrator-(Records Department)-requesting the following: "Please certify and mail File Number A132155 (February

3, 2006 stay of medication) to the following person:...Timothy T. Actkinson, # 7854875...It is important for Mr. Actkinson to receive this asap, as he is on the wrong medication, which is making him ill, and which no one at all will correct." ^{see # 266, 289, 544.} Then, On July 18th, 2007 the Plaintiff received a copy of the: 'Stay of Medication Order' which was certified a true copy by the State Court Administrator on: July 11th, 2007. Then, On July 23rd, 2007 Plaintiff Actkinson received a document stating, in part: "Multnomah County Circuit Court; 050834753; A132155; Marilyn E. Litzenberger, Judge; Submitted on brief: April 6, 2007 Before Brewer, Chief Judge, and Armstrong and Rosenblum, Judges...**AFFIRMED WITHOUT OPINION**...Effective Date: July 17, 2007" These three documents would indicate that the Sentence along with its Order was: "**AFFIRMED!**" ^{see # 284.}

~~§~~. 53,

During the time of the Plaintiff's Post Prison Supervision in the years of: 2004 and 2005, he was found to be in violation of his Post Prison Supervision, at least, once for the reason of not taking the following medication(s): No.1) Dexedrine; No. 2) Clonazepam; & No.3) Nuerontin. The Plaintiff received Post Prison Supervision sanctions, specifically, for not taking these boldly highlighted and underlined medications. [In attempts to pin-point the dates of being held in violation for not taking the identified medications the Plaintiff has written to the ODOC records department, to his assigned counselor, and to other ODOC personell who either request he pay for these records or they give him illogical replies such as: "I do not know your exact dates of PPS because unscond status does not count towards your PPS." ^{see # 1403}] This quoted reply was from Plaintiff's Counselor at the Snake River Correctional Institution; (1)-Ms. Mackenzie in response to a communication by Plaintiff dated 07-19-2007 and answered by Plaintiff's S.R.C.I. Counselor on 07-23-2007.

~~§~~. 54,

All defendants have acted with deliberate indifference in regards to denying Plaintiff the professionally, expertly, (PPS)-Post Prison Supervision mandated and court ordered psychiatric medications as identified in paragraph No. ~~20~~ ^{52, 53} of this complaint, and which medications have also been ordered to be maintained by the Circuit Court Judge; the honorable Marilyn Litzenberger. As has been identified throughout this complaint. ^{see # 219} When Plaintiff was incarcerated into ODOC custody, he informed the prison staff, including all health Services medical staff and Correctional Treatment Services staff of his mental health conditions and supplied all parties in the: Health Services Department; Counseling and Treatment Services Department; and in the Records Department of ODOC with his medical records and court orders pertaining to his: Needed Medical Care; Appropriate Treatments of his Medical & Psychiatric Conditions; and Sentencing Judgments.

~~§~~. 55,

Plaintiff Timothy Tabias Actkinson entered ODOC custody with seeing eye glasses which Defendants lost and/or deliberately misplaced or destroyed. Plaintiff has attempted to locate his seeing eye glasses with no success to date and has requested to be tested for new glasses, however, the Defendants are telling him in written correspondences that when the funds are present in Plaintiff's medical/optical reserve account that he can resubmit for eye glasses. ^{see # 954, 1088, 1392} The ^{see # 476, 623, 674} 1076. right to the basic human function of being able to read and to see is not justifiably being denied by the Defendants, rather it is being denied under cruel and unusual punishments, which have not been ordered through a court of law.

~~§~~. 56.

Finally, Plaintiff was referred to see a psychiatrist by Dr. Elliot Blakelees then he appeared on the inmate call-out appointment/scheduling board to meet with Ms. Harmon, a nurse

1 practitioner, the very one who engaged in actively telling the Plaintiff to leave medical and to
 2 leave medical staff alone-(meaning to not complain about his serious medical needs), with
 3 whom the Plaintiff recognizes as a Defendant in U.S.D.C. # 6:04-CV-00698-ALA which is now
 4 in appeal in U.S.C.A. # 06-35367. Ms. Harmon told Plaintiff that, "her assignment was from
 5 order of Dr. Ruthven" ^{see #} a Defendant in this new action. Plaintiff has made a formal request to
 6 obtain a recording of the video conference appointment with Ms. Harmon because of her threat's
 7 meant to cause this Plaintiff fear. ^{see # 1402.} The Plaintiff filed a grievance because of an earlier encounter
 8 with Ms. Harmon which was laced with malice and aggressiveness and another grievance for the
 9 way Plaintiff was treated during the video conference appointment with Ms. Harmon, however, ^{see # 206-208, 416, 417, 1020 - 1024,}
 10 Plaintiff has received a response telling him that these video conferences are not recorded. Ms.
 11 Harmon and Dr. Ruthven are both named defendants in this new complaint.

12 ~~57.~~ 57.

13 As a result of the Defendant's non-compliance with courts orders and the Defendant's
 14 non-compliance with several of ODOC's psychiatrists and specialists both contracted and actual
 15 ODOC employees for specific treatment the Plaintiff has mental health disorders and physical
 16 health problems that are going improperly treated and Plaintiff is suffering needless physical and
 17 psychological anguish and pain. At all times the Defendants acted with deliberate indifference to
 18 the Plaintiff's serious medical and psychological needs and requirements. At every interaction
 19 with the process of receiving adequate care and/or treatment Plaintiff is being unprofessionally

20 mistreated and further inflicted with tactics meant to cause pain and suffering and to harm and to
 21 cripple the Plaintiff in various manners, which will be proven at trial. ^{see # 251-256, 276-279, 285-298, 372, 382, 386-388, 394-396, 400, 401, 409-415, 426, 434, 439, 440, 468, 469, 483, 485, 486, 520-525, 541-543}
 22 ~~58.~~ 58.

23 Plaintiff is told by all providers that they have been given special handling instructions
 24 from either Dr. Shelton and/or Dr. Ruthven which always in one way or more involves the scope

1 of care a provider may exercise within their expertise in regards to Plaintiff's care.

2 ~~48~~ 59,

3 In mid-February to early-March Plaintiff Actkinson discovered a lump in his right breast
4 and brang this to the attention of Dr. Gulick who confirmed the lumps presence. Dr. Gulick said
5 he was submitting a request to the TLC committee asking for some tests to look for other
6 suspicious growths and to see if there is a need for medical intervention or not. Plaintiff was told
7 a couple weeks later that the TLC committee had denied any kind of medical exploration,
8 however, Dr. Gulick told Plaintiff Actkinson that he could have Dr. Elliot Blakelees cut it out.

9 When Plaintiff asked if the lump would "be tested to see if it was cancer or not" he was told that

10 "it would not be." The growth began as what appeared to be a BB sized object. Now four months

11 later it is approximately the size of a nickel or quarter in diameter.-(note: Plaintiff was just

12 shown how to assess the correct size of his lump by another inmate who has had experience in

13 these matters. So he is unsure if the lumps have grown or if he has just discovered their true

14 sizes.) Plaintiff Actkinson has continued to request a biopsy and/or to have it removed then

15 biopsied. To date he has not received any answer besides, "No." See #375, 376, 424-444, 480, 532-534.

16 ~~48~~ 60,

17 On the Sixth of May Plaintiff Actkinson filed a grievance complaining that his request to

18 see if there is any more lumps was denied and asking, "What good does it do to find cancer in its

19 early stages if testing and treatments are going to be denied!?!?" See paragraph #59.

20 ~~48~~ 61.

21 Since Plaintiff's needed medications have been discontinued and before the discovery of

22 lumps in his chest he has experienced had extremely high blood-pressure readings. When he took

23 prescribed blood-pressure medications he experienced chest pains but no improvement in his

24 blood pressure. Within two-weeks of taking said B/P medications Plaintiff Actkinson was taken

1 to the emergency room by ambulance due to excessively high blood-pressure readings and
 2 excessively elevated heart rate readings. The E.R. Doctor (1)-Dr. Stone recommended a test to
 3 inject a dye into Plaintiff Actkinson to see how his heart was processing his flow of blood. To
 4 date this test has also been denied by the TLC committee. *see # 191, 193, 194, 196, 203, 204*

5 *#. 62.*

6 On May 27th, 2008 Plaintiff Actkinson filed a grievance complaining that his blood-
 7 pressure he believes is associated with the discontinuance of his psychiatric medications but
 8 since they have refused to maintain those medications then the recommended and requested tests
 9 should be followed. The recommended test is an angiogram-(sp ?)-where dye is run through the
 10 heart to see how the heart is processing a persons blood flow. *(NOTE) - Dr. Gulek told me this was the*

11 *Test recommended however that was false - it was actually a stress test. (Treadmill?)*
#. 63.

12 On or about May 12th, 2008 Plaintiff Actkinson met with a CTS case manager (1)- Mr.
 13 Christofferson who said he was asked to review Plaintiff Actkinson's treatment and the events
 14 surrounding the question and validity of the discontinuance of his psychiatric medications. Mr.
 15 Christofferson said, "One: when a person has a medical file that is as thick as yours its a sign that
 16 he is a drug-seeker. Two: you first used methamphetamine intravenously at age eleven. Three: a
 17 persons right to coherency and ability to focus with the aid of medications is restricted to those
 18 who are involved in schooling and who are programing."-(note: Plaintiff has tried to get involved
 19 into educational programs but has been routinely denied, then, his psychiatric medication's were
 20 discontinued and a defense to the discontinuation is that he is not involved in, "*schooling and*
 21 *who are programing.*" *see #440,*

22 *#. 64,*

23 Plaintiff does not agree with the thickness of a person's medical file having anything to do
 24 with being a reason to categorizing as being anything and especially so as in being designated as

1 a 'drug-seeker'. Plaintiff's use of amphetamine intravenously at age eleven was involuntary and
 2 this fact was told to his youth guidance counselor and he told Mr. Christofferson that he didn't
 3 appreciate that thrown into his face against him for this experience was a very traumatic and
 4 terrifying crime violently committed against his will. Plaintiff disagrees with the assumption that
 5 a persons right to mental health treatment only being a right if that person is going to school or
 6 doing certain institutional programs. Plaintiff Actkinson feels that Mr. Christofferson's
 7 rationalizations and explanations give more credence to the fact that Mr. Christooferson just
 8 being ODOC's slap-stick confirmer, rather than being an unbiased investigator.

9 ~~see~~ b5.

10 Plaintiff was served with falsified charging papers/documents which give a clear
 11 interpretation that Plaintiff Actkinson was being charged with felonious fraud will held at the
 12 Multnomah County Detention Center along with bogus behavioral misconduct reports all which
 13 surround Plaintiff's typed letter to Senior Assistant Attorney General (1)- Leonard Williamson. ^{see #} 1080, 1081.

14 ~~see~~ b6.

15 Plaintiff Actkinson produced, at least, one falsified charging instrument to Ms. Heidi
 16 Mackenzie his ODOC SRCI Institutional Counselor that any lay person could easily ascertain
 17 was created to convince that a charge of felonious fraud was, indeed, being brought against the
 18 Plaintiff. ^{see #1081,} The charging instrument showed the charge of felonious fraud and which even gave a
 19 number that was identified as a case number for that charge. Plaintiff went on to explain in great
 20 detail that he had contacted The Multnomah County Courthouse and had discovered the fake
 21 case number was, indeed, only the police report number for an old UUMV-(Unauthorized Use
 22 of Motor Vehicle)- charge and showed her how the fake case number and police report number
 23 were identical. Plaintiff went on to explain that by ODOC subtracting Good-Time/Earned-Time
 24 credits and lengthening his sentence, then, refusing to correct the error after being shown the

- see #1050

evidence that ODOC should correct this error. Ms. Mackenzie's response was to tell Plaintiff Actkinson that he would need to have Multnomah County admit and to agree to these facts before ODOC would take any step to correct this error. Because the charging instrument was fake no such avenue exists with which Plaintiff Actkinson can reasonably and/or unreasonably put this issue for review and/or remedy except by bringing the issue to light to ODOC and his ODOC Institutional Counselor which did not work. Therefore Plaintiff is in need of addressing this issue in front of this court.

67.

Defendants continue to create circumstances that require Plaintiff to shift his attention to such things as:

1.) Funds taken for no reason and/or wrongfully claiming: he purchased store items he did not; subtracting funds for phone experts and materials they would use when he asked, "Since phone calls are recoded is there a way to acquire recordings of calls?" *see paragraph #34 lines #19 & 20.*

2.) Confiscating then holding his legal work for long periods of time. *see #311, 625, 670, 697, 523, 766-780, 791, 1158-1160, 1438, 810, 828, 832-843, 862, 1565-1568,*

3.) Plaintiff Actkinson has and is being denied seeing eye-glasses as a punishment. *see #471, 1088, 1392*

ODOC's eye-glass committee identifies this as being a valid denial of seeing eye-glasses.

4.) Plaintiff Actkinson is receiving Sanitation conduct orders for not locking his locker which he cannot read the numbers on the combination padlock *see #326*

5.) Confiscating envelopes he just purchased stating the reason that, "his name was not written on them." When you purchase envelopes they do not come with your name or SID

number on them. *see paragraph #34 lines #6 & 7.*

6.) Confiscating Plaintiff Actkinson's ^{outbound} inbound mail for any number of false reasonings is rampant. *see #464, 465, 1297, 298, 301, 302, 316, 318, 324, 461, 516-519, 694, 695, 918, 971, 976, 1001, 1020, 1025, 1126, 1171-1181, 1190, 1191, 1199, 1200, 1202, 1203, 1226-1229, 1232, 1240, 1284-1286, 1293, 1340, 1583, 1587.*

These are only a couple of the many of actions employed to harass and hinder Plaintiff's

1 ability to contact court and to put his case together. This has been a reoccurring tactic employed
2 by the Defendants.

3 7.) Another one of these tactics was to take Plaintiff's right to Good-Time/Earned-Time
4 eligibility away from the Plaintiff after he had already served part of his sentence claiming he
5 was not eligible for any kind of time reduction. When he sent copies of his sentencing order to
6 prove his eligibility he would receive responses like:

7 "...attached a copy of the page from your final judgment order that clearly shows you
8 aren't eligible. If you think that's incorrect, you need to contact the court." ^{see # 498, 499, 500, 501-538} only the second page
9 of my sentencing order was allowed and Plaintiff's requests for the first page were denied for the
10 purpose that they would not have to follow what that page which clearly showed support of my
11 eligibility. This was done by highlighting a section that states on all sentencing orders which
12 reads: "Based upon factors stated in open court on the record, there are substantial and
13 compelling reasons to order that the defendant not be considered for leave from custody,
14 reduction in sentence, work release, alternative incarceration programs, alternative sanctions or
15 programs of conditional or supervised release except for the following:" ^{see # 295.}

16 This is where the Defendants chose to stop reading the sentencing order. However, the
17 orders next line reads: "[x] Good behavior credit (ORS 169.110)" ^{see # 500.} This was the first box of six
18 immediately following the generic sentencing requirements statement. Also, the sixth and last
19 box was selected which reads: "[x] Other: earned time." ^{see # 500.} Plaintiff Actkinson is seeking any and
20 all lost and taken Good-Time & Earned-Time credits lost and/or taken because Plaintiff of the
21 Plaintiff contesting thses tactics and dolus claims which he won and odoc has complied with the
22 correct sentencing sanctions, however, the Defendants have continually retaliated by accusing
23 the Plaintiff with rule violation(s) that he did not commit and are now using these as their reason
24 for subtracting over four months from his original Good-Time/Earned-Time release date. ^{see # 296, 490-497.}

1 ~~28~~. 68.

2 Plaintiff is being told in person, "There is not anyone who can treat you at ODOC's Snake
3 River Correctional Institution due to your filing a lawsuit." This is referring to Plaintiff's USDC
4 Case No: 6:08-CV-0187-TC Case Name: Actkinson v. Dr. Shelton et al., So it will be necessary
5 for Plaintiff to seek to be moved to an ODOC institution where he can receive medical and
6 psychiatric treatment. *see # 1665, 335, 380, 381, 383, 468, 469, 483, 426.*

7 ~~28~~. 69.

8 Plaintiff has filed numerous grievances about his legal work being confiscated, being
9 written up for expressing his concerns, and a slew retaliations aimed at instilling fear of
10 retribution for seeking administrative remedies. These are denied and/or returned as follows:
11 "Your grievance is being returned because the rule Inmate Communication and Grievance
12 Review System, Division 109 states 'The Department will not process grievances on claims or
13 issues that the inmate is pursuing in pending litigation in the courts.' You stated you have
14 pending litigation in Federal Court on Dr. Gulick.' *see # 377, 378.* This rule 109 is routinely used against
15 grievances filed by Plaintiff. In this specific grievance #2008.05.006 I was explaining that Dr.
16 Gulick override the Emergency Room doctor's prescription of needed medications and after
17 surgery care, I gave as Dr. Gulick's motivating factor as: "may be retaliation due to U.S.D.C.
18 Case # 6:08-CV-0187-TC a federal case which I was forced to file to protect myself from his
19 purposefully employing tactics to torture and maim me.' *see # 377, 378.* Under Rule 109 Grievance Review
20 System (3) (f) reads: *see grievances*

21 "Claims or issues that the inmate is pursuing in pending litigation in state or federal
22 courts; or" after reading the complete rule and its definitions it is plain that an inmate cannot
23 seek remedy through the grievance system if you are seeking remedy through a court process.
24 Plaintiff has been denied grievances and verbally told that, "You have abused the grievance

process.” Under rule 291-109-0180 (Abuse of Grievance Review System) it states: ^{See # 1140}

“(1) An inmate shall submit no more than three inmate grievances in any one week or eight in any calendar month, unless a valid justification exists. Grievances submitted in excess of three grievances in any one-week or eight in any calendar month will be returned to the inmate without further processing noting that he/she has abused the grievance review system.” The Defendants have violated the rights of the Plaintiff in such a malevolent manner that it more than any inmate could withstand. Plaintiff Actkinson suffers from several mental health disorders and he has also recently been denied all treatments to address his disorders so where any other inmate could be deemed to be accountable to normal procedures Plaintiff Actkinson is trying to do everything he can while incapacitated by his mental health disorders and while the defendants are purposefully with drawing any kind of treatment whatsoever. Under these conditions and the depth with which the department of corrections is creating and carrying out grievable issues against Plaintiff Actkinson there is no way the inmate legal assistants can continue to help Plaintiff Actkinson put his issue's before this court. Of course, we can help him in general ways and we will continue to do so. ^{See responses to grievances See # 1252}

^{See # 70}

On June 25th, 2008 Plaintiff Actkinson was seen by Defendant Corvino who asked Plaintiff Actkinson, “How are you doing? How is your medication working?” Plaintiff Actkinson told him, “I am not doing good and the medication that I getting is not helping at all and I want to be taken off of it. I need help because all the officers keep telling me I am not focusing. I keep getting direct orders to go asleep.” Defendant Corvino replied, “I can up your current medication.” Plaintiff answered, “I just told you it doesn't work and; Dr. Elliot Blakeleas; nurse Saigho; and nurse Fritz have all said I did much better on my ADD/ADHD medication. You said, “If those who know you say you do better on your ADD/ADHD medication then I

1 leave you on it. Plaintiff Actkinson went on to explain, "that numerous mental health and
 2 physical health personell have advised me to ask about a medication called Strattera, a new
 3 ADD medication if I was to be denied his ADD/ADHD medication." He replied, "They should
 4 not say anything to you about any medications." At this point Plaintiff was dismissed from the
 5 video interview room. *see # 386-388, 401, 541-543, 1651, 1652*

6
 7
 8
 9 FIRST CLAIM FOR RELIEF: 8th Amendment Violations

All Defendants Except State of Oregon

Delay and denial of Medical Care: Medical & Psychiatric

10 No.1) **Psychiatric Care:** Failure to administer *court ordered* psychiatric medication & substituting
 11 insufficient dosages of (Ritalin) instead of (Dexedrine); enforcement of Court's order.

12 No.2) **Medical Care:** Removed Plaintiff from Nuerontin although nothing was substituted for this
 urgent medication. Plaintiff must be prescribed the appropriate medications.

13
 14 Plaintiff realleges paragraphs 1 through and including ⁷¹ ~~70~~ as if more fully set forth herein.

15
 16 Plaintiff suffers from serious medical conditions, also; Plaintiff suffers from some serious
 17 psychological disorders.

18
 19 Unless properly diagnosed and treated, Plaintiff's serious medical conditions lead to
 20 serious needless suffering, protracted pain and loss of physical abilities.

21
 22 Unless properly diagnosed and treated, Plaintiff's serious psychiatric conditions lead to
 23 serious and needless suffering, protracted pain and loss of social abilities, and has great difficulty
 24 maintaining personal relationships and great difficulties with simply completing tasks. The basic

1 qualities of life are severally compromised. Furthermore, the Plaintiff's psychological and
 2 physical maladies have worsened due to the lack of quality of care and additional treatments are
 3 likely to be added to his needs.

4 *§. 76,*

5 All Defendants have, at all times relevant, been deliberately indifferent to the serious,
 6 physical and psychological needs of Plaintiff.

7 *§. 77,*

8 All Defendants acted throughout Plaintiff's incarceration at issue with conscious
 9 disregard of the substantial risk of serious harm to the health and life of Plaintiff caused by their
 10 failure to properly diagnose and/or to treat Plaintiff's serious medical conditions and further by
 11 intentionally diminishing Plaintiff's serious mental illness and deficits.

12 *§. 78,*

13 The acts and omissions of all Defendants, at all times relevant, are lacking in sound
 14 medical judgment and are professionally / medically unacceptable under the circumstances.

15 *§. 79,*

16 The acts and omissions of all Defendants with respect to the treatment and of Plaintiff's
 17 serious psychological diagnosis of: Attention Deficit Disorder/Attention Deficit Hyperactivity
 18 Disorder-(Combined Types), have been, at all times relevant, a substantial departure from
 19 accepted professional judgment, practice and/or standards of care.

20 *§. 80,*

21 The acts and omissions of all Defendants in failing to properly treat Plaintiff's serious
 22 psychological deficits has been, at all times relevant, based upon Defendants' attempts to avoid
 23 the expense of providing treatment, their perceptions of Plaintiff's mental state, their defiance of
 24 court orders and other invalid reasons, rather than upon valid medical reasonings.

1 ~~80~~ 81

2 All Defendants have, at all times relevant, acted in bad faith in refusing to properly treat
3 Plaintiff's serious medical and psychological conditions based upon financial and other improper
4 reasons, rather than valid medical reasons and or penological interests.

5 ~~81~~ 82

6 The acts and omissions of all Defendants in failing to properly and professionally treat
7 Plaintiff's serious conditions amounts to the knowing, unnecessary and wanton infliction of pain
8 and suffering upon the Plaintiff.

9 ~~82~~ 83.

10 It is, and has been since 1976, clearly established that prison officials may not act with
11 deliberate indifference to the serious medical needs of prisoners.

12 ~~83~~ 84.

13 It is clearly established that prison officials act with deliberate indifference to the
14 prisoners' serious medical needs when they deny, delay or intentionally interfere with necessary
15 medical treatments.

16 ~~84~~ 85.

17 As a result of the acts, omissions, delays and denials of medical treatment for Plaintiff's
18 well established and serious medical/psychological conditions Plaintiff has/is suffering avoidable
19 and needless pain, emotional distress, physical & psychological punishment, the permanent loss
20 of the quality life during these unnecessary tribulations from: February 10th, 2006 and which has
21 been ongoing to date. Plaintiff has not only requested the proper treatments but also the just and
22 proper counseling for his conditions, however, these identified treatments of counseling have
23 been denied, thus, the Plaintiff will require extensive future expenses associated with counseling,
24 job training/retraining, life skills and the inability to obtain a significant range of employment

1 and or living situations. Additionally, the Plaintiff will require extensive future expenses to
 2 address the ongoing nature of his conditions, expensive psychiatric treatments, medications, and
 3 whatever else may be deemed necessary and or appropriate by the experts. Plaintiff reserves the
 4 right to amend this complaint as expert evidence provides updated scientific advancements and
 5 or information. Plaintiff also suffered significant and serious non-economical damages which
 6 will be more specifically proven at trial.

7 ~~12.~~ 86,

8 Because Defendant's treatment not only violated the existing medical standard of care
 9 found in the community but it was also deliberately, purposefully and intentionally abusive,
 10 neglectful and punitive in nature. At all times the Defendants acted with deliberate indifference
 11 to the Plaintiff's serious medical needs and requirements. Plaintiff seeks punitive damages
 12 against each named Defendant.

13 ~~13.~~ 87,

14 SECOND CLAIM FOR RELIEF: 8th Amendment
 15 All Defendants Except State of Oregon
 16 Delay and denial of Medical Care: Failure to Treat, Failure to Treat Pain

17 ~~14.~~ 88,

18 Plaintiff realleges the claims in paragraphs 1 through ~~15~~⁸⁷ as if more fully included.

19 ~~15.~~ 89,

20 Plaintiff complained repeatedly of increasing pain, headaches and other painful
 21 symptoms of his conditions including the exacerbating effects and adverse reactions caused by
 22 the ODOC's unauthorized supplemented medication: **Ritalin**. These actions also violated the
 23 Plaintiff's: *Court-ordered* Attention Deficit/Attention Deficit Hyperactivity Disorder-(**combined**
 24 **types**) medication of: **Dexedrine**. All claims by Plaintiff went ignored by Defendants.

~~¶~~ 90.

Defendant's treated Plaintiff's complaints of pain, adverse effects and other symptomatology as if Plaintiff were a hypochondriac and failed to take his complaints seriously as they disregarded him as "a drug-seeker" or suffering emotional/mental delusions.

~~¶~~ 91.

As a result of Defendant's failure to diagnose, treat and evaluate Plaintiff's complaints Plaintiff suffered needless pain and suffering. At all times the Defendants acted with deliberate indifference to the Plaintiff's serious medical needs and requirements.

~~¶~~ 92.

Because Defendant's treatment not only violated the existing medical standard of care found in the community but it was also deliberately, purposefully and intentionally abusive, neglectful and punitive in nature. At all times the Defendants acted with deliberate indifference to the Plaintiff's serious medical needs and requirements. Plaintiff seeks punitive damages against each named Defendant.

~~¶~~ 93.

THIRD CLAIM FOR RELIEF: ADA Claim
Defendant State of Oregon
Discrimination against an individual with a disability

~~¶~~ 94.

Plaintiff realleges the claims from paragraphs 1 through ~~79~~⁹³ as if more fully set forth herein.

~~¶~~ 95.

The State of Oregon, by and through the Oregon Department of Corrections, has a policy of failing to treat or evaluate patients who are considered mentally ill or who suffer from a serious, chronic mental illness. This policy is manifest by the failure to respond to written

1 communications by inmates, failure to treat objective and or subjective symptoms of both
 2 physical and or psychological injuries or illnesses, punishing the mentally ill by forcing them
 3 into isolated and restricted housing units such as: IMU, DSU, PCU and SMU for even minor
 4 violations of policy and procedure, failure to provide a regular and uninterrupted anti-
 5 depressants, anti-psychotics and other medications needed to control mental illness, failure to
 6 provide any medical and or psychological care or treatment in these special housing units and
 7 generally ignoring serious complaints of both physical and psychological ailments because the
 8 individual has a diagnosis of a mental illness.

9 ~~82.~~ 96.

10 Defendant State of Oregon is a public entity obliged under law to provide equal
 11 accommodation, benefits, services, programs and activities to all inmates within its care.
 12 Defendant State of Oregon is required to make reasonable accommodation for benefits,
 13 programs, services and activities for all qualifying disabled inmates. These services include the
 14 following of Court Orders.

15 ~~82.~~ 97.

16 The acts and omissions of Defendant State of Oregon in establishing, modifying,
 17 maintaining and applying the a de facto policy of failure to adequately treat the medical/mental
 18 needs of the mentally is inherently discriminatory against mentally ill patients and denies those
 19 inmates medically/mentally necessary treatment based solely upon their disability. ODOC's
 20 policy of failure to adequately treat the medical/mental needs of mentally ill inmates fails to
 21 accommodate the disabilities of Plaintiff herein by denying adequate, necessary, proper and
 22 medically/mentally acceptable diagnosis and treatment of Plaintiff's serious medical and
 23 psychological conditions.

24 ~~82.~~

1 The delay and denial of medical/mental care of
 2 Plaintiff's serious medical/mental conditions herein
 3 was a result of his mental illness and the discriminatory
 4 behavior by OOC staff by refusing to comply with
 5 Court ordered medications and by sending him to
 6 restrictive housing, "the hole" - (D.S.U.), threatening to
 7 punish him, threatening to "take his medications away",
 8 advising contracted specialists to "not prescribe this or
 9 that medication", "this is that treatment", by refusing
 10 him proper and adequate medical and psychological
 11 treatments by patronizing him, by calling him "a drug-
 12 seeker" and considering him to be a hypochondriac.

13
 14 WHEREFORE, Plaintiff prays for judgment
 15 as follows:

16
 17 #1. On Plaintiff's first and second claims for relief
 18 against all Defendants excepting the State of Oregon, Plaintiff
 19 prays for judgment in his favor unspecified sum to be
 20 proven at trial for non-economic damages; punitive
 21 damages of unspecified sum to be proven at trial per
 22 each individual and attorney fees and costs; the Enforcement
 23 of Court Ordered - Stay of ADD/ADHD medications and for the
 24 Court to appoint an impartial psychiatrist to meet with
 25 Plaintiff and prescribe treatment for Plaintiff and for
 26 the Court to enforce said prescribed treatment. [DEXEDRINE]

1 #2. On Plaintiff's Third claim for relief against State
 2 of Oregon, Plaintiff prays for judgment in his favor of
 3 unspecified sum to be proven at trial in economic
 4 damages plus an unspecified sum to be proven at
 5 trial for non-economic damages, and punitive damages
 6 of unspecified sum to be proven at trial per each
 7 individual and attorney fees and costs.

8
 9 #3. Plaintiff prays for judgment in his favor of:
 10 \$ 1,020.00 - One Thousand Twenty dollars for
 11 theft of his medical devices. of economic damages
 12 to be proven at trial total amount against all defendants.

13
 14 #4. Plaintiff prays for judgment in his favor of:
 15 \$ 220.48 - Two Hundred Twenty dollars and
 16 forty-Eight cents for theft and illegal confiscation
 17 of OOC store bought items of economic
 18 damages to be proven at trial total amount
 19 against all defendants.

20
 21 #5. Plaintiff prays for judgment in his favor of
 22 the correction to his release date releasing him
 23 on: 01-11-09. If the release date of: 01-11-09
 24 is not forthcoming Plaintiff will pray for
 25 judgment in his favor of: \$800.00 - Eight
 26 Hundred dollars per each day Plaintiff is

1 held past: 01-11-2009 total amount against all
2 defendants.

3
4 #6. Such other relief as is just and equitable.

5
6
7
8 Respectfully Submitted this 19th day of
9 October, 2008.

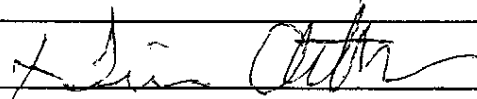
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Pages #1-(through) #250: medical records pertain-
ing to time period beginning on February 10th, 2006
and ~~ending~~ ending in June (or) July 2008.

Pages #251-(through) #668: Consist of Innate
Communications; Grievances; Grievance Appeals;
Interoffice communications; Confiscation slips;
Cell shake down reports; misconduct reports;
Receipts; Court orders; declarations; and other
documentations.

I tried to attach page numbers to para-
graphs to support all claims. I apologize
for it being so disorganized but
this is as best as I could do in my
current dilemma of being without;
ADD/ADHD meds, eye glasses, etc

Respectfully,



Tim Atkinson

10- -08

Declaration of Mailing

I, Tim Atkinson, do declare that:

I mailed 3 large manila envelopes containing my amended complaint with 1668 pages of supporting documentations to both of the following persons:

#1) United States District Court of Oregon

405 East Eighth Avenue Suite #2100

Eugene, Oregon 97401

#2.) Kristin A. Winger - deputy Attorney General

1162 Court Street N.E.

Salem, Oregon - 97301-4096

On the date identified below...

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury. I sign to this fact

X Tim A. Atkinson

Dated this 19th day of October 2008 Timothy A. Atkinson

7854875 Pro se

777 Standen blvd.
Ontario, OR 97141